

Message Text

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TO ALL DIPLOMATIC POSTS

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UNCLAS STATE 035949

C O R R E C T E D C O P Y (GARBLD TEXT PARA 3(D) ITEMS 19 AND 20)

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TAGS: ETRD

SUBJECT: CHARGES OF U.S. PROTECTIONISM

POSTS MAY DRAW ON THE FOLLOWING IN RESPONDING TO INQUIRIES
ABOUT U.S. PROTECTIONISM.

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1. OVER THE PAST YEAR THERE HAS BEEN CONCERN ABOUT U.S.

"PROTECTIONISM" AS AMERICAN INDUSTRIES SOUGHT RELIEF FROM UNFAIR TRADE PRACTICES OR SERIOUS INJURY FROM INCREASED IMPORTS UNDER SEVERAL PROVISIONS OF THE TRADE ACT OF 1974. BELIEVE IT WOULD BE USEFUL NOW TO LOOK AT THE END RESULTS OF THE FIRST YEAR OF THE TRADE ACT, RATHER THAN AT NUMBER OF INVESTIGATIONS UNDERTAKEN, TO ASSESS WHETHER ALLEGED U.S. "PROTECTIONISM" REALLY POSES A THREAT TO OUR TRADING PARTNERS. IN A PERIOD OF RECESSION AND WITH A NEW AND UNTESTED TRADE ACT, IT WOULD HAVE BEEN REMARKABLE IF CERTAIN U.S. BUSINESS HAD NOT SOUGHT RELIEF FROM IMPORTS AND, TO A DEGREE, SOUGHT TO TEST THE NEW LAW. AS WILL BE SHOWN, HOWEVER, THE ADMINISTRATION HAS SUCCESSFULLY RESISTED UNWARRANTED PROTECTIONISM BY A STRICT CONFORMITY TO LEGAL CRITERIA BEFORE RECOMMENDING OR GRANTING RELIEF. WHILE THE UNITED STATES GOVERNMENT NORMALLY DOES NOT INITIATE INVESTIGATIONS ON ITS OWN INITIATIVE, THERE IS A RECOGNIZED NEED FOR SOME AVENUES OF RELIEF FOR

INDUSTRIES AFFECTED BY UNFAIR TRADE PRACTICES OR INCREASED IMPORTS.

MOST ACTIONS HAVE BEEN BROUGHT UNDER ANTIDUMPING, COUNTERVAILING DUTY OR "ESCAPE CLAUSE" LAWS WHICH HAVE LONG BEEN IN THE U.S. STATUTE BOOKS. MORE THAN 50 CASES WERE INITIATED IN THESE CATEGORIES IN 1975. HOWEVER, DUMPING DUTIES WERE IMPOSED IN ONLY ONE CASE AND COUNTERVAILING DUTIES IN FOUR. NO RELIEF WAS GRANTED UNDER "ESCAPE CLAUSE" LEGISLATION. FOLLOWING IS A SUMMARY OF PERFORMANCE FOR 1975.

(A) U.S. ANTIDUMPING LEGISLATION PROTECTS U.S. PRODUCERS FROM IMPORTS OF SIMILAR PRODUCTS WHICH ARE SOLD IN THE UNITED STATES AT PRICES DETERMINED TO BE LOWER THAN THE MARKET PRICE IN THE EXPORTING COUNTRY. WHEN THE TREASURY DETERMINES THAT SALES "AT LESS THAN FAIR VALUE" HAVE OCCURRED, THE CASE IS REFERRED TO THE INTERNATIONAL TRADE COMMISSION (ITC) FOR A DETERMINATION OF INJURY TO THE U.S. INDUSTRY. DUMPING DUTIES ARE ASSESSED AGAINST PARTICULAR PRODUCTS FROM INDIVIDUAL FIRMS ONLY WHEN INJURY HAS BEEN FOUND TO EXIST. THE MAJORITY OF CASES DO NOT RESULT IN UNCLASSIFIED

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FINDINGS OF INJURY.

(B) INTERNATIONAL ATTENTION HAS BEEN FOCUSED ON U.S. DUMPING PRACTICES AS A RESULT OF A PETITION FILED BY THE UAW AND CONGRESSMAN DENT OF PENNSYLVANIA AGAINST AUTOMOBILE MANUFACTURERS IN CANADA, EUROPE AND JAPAN. THE TRADE INVOLVED IS IN EXCESS OF SEVEN BILLION DOLLARS.

(C) ACTUALLY, ANTIDUMPING PETITIONS DID NOT INCREASE SIGNIFICANTLY IN 1975 IN COMPARISON TO RECENT YEARS. ONLY ONE FINDING OF DUMPING WAS ISSUED AGAINST ELECTRIC GOLF CARS FROM POLAND. (IN COMPARISON, AT THE END OF 1975 THERE WERE IN EFFECT SEVEN DUMPING FINDINGS FROM 1974, NINE FROM 1973, FOURTEEN FROM 1972, AND THIRTEEN FROM 1971.) AT THE CLOSE OF 1975, TWENTY THREE CASES WERE AT VARIOUS STAGES OF INVESTIGATION, INCLUDING THE EIGHT AUTOMOBILE CASES.

(D) FOLLOWING ARE TWO LISTS OF ANTIDUMPING CASES. THE FIRST GIVES ACTIONS TAKEN IN 1975. NO SLFV INDICATES TREASURY DID NOT FIND SALES AT LESS THAN FAIR VALUE WHILE MENTION OF INJURY INDICATES DETERMINATION OF INTERNATIONAL TRADE COMMISSION FOLLOWING A TREASURY DETERMINATION OF SLFV. THE SECOND LISTS ANTIDUMPING INVESTIGATIONS IN PROGRESS AS OF JANUARY 1, 1976.

1975 ANTIDUMPING DECISIONS

1. TAPERED ROLLER BEARINGS JAPAN LIKELIHOOD OF INJURY;
IN LITIGATION
2. SHOES, WELT WORK ROMANIA NO INJURY
3. PORTABLE ELECTRIC JAPAN NO INJURY
TYPEWRITERS
4. TRANSIT SEATS BRAZIL NO SLFV
5. LOCK-IN AMPLIFIERS U.K. NO INJURY
6. ELECTRIC GOLF CARS POLAND INJURY; FORMAL DUMPING
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FINDING

7. NON POWERED HANDTOOLS JAPAN NO INJURY
8. VINYL CLAD FENCE FABRIC CANADA NO INJURY
9. RADIAL BALL BEARINGS JAPAN NO SLFV
10. SEALED RECHARGEABLE JAPAN NO SLFV
NICKEL CADMIUM
BATTERIES
11. CHICKEN EGGS IN THE CANADA NO SLFV
SHELL

ANTIDUMPING INVESTIGATIONS IN PROGRESS ON JANUARY 1, 1976

REFERRED TO INTERNATIONAL TRADE COMMISSION FOR DETERMINATION OF INJURY

1. BIRCH 3-PLY DOORSKINS JAPAN DUE 1/10/76

2. BUTADIENE ACRYLONITRILE JAPAN DUE 3/29//6

TREASURY INVESTIGATING SALES AT LESS THAN FAIR VALUE

3. WATER CIRCULATING PUMPS SWEDEN

4. WATER CIRCULATING PUMPS U.K.

5. POLYMETHYL METHACRYLATE JAPAN
POLYMERS

6. SKI BINDINGS & PARTS WEST GERMANY

7. SKI BINDINGS & PARTS AUSTRIA

8. SKI BINDINGS & PARTS SWITZERLAND

9. ACRYLIC SHEET JAPAN

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10. BRICKS CANADA

11. KNITTING MACHINES ITALY

12. AUTOMOBILES JAPAN

13. AUTOMOBILES WEST GERMANY

14. AUTOMOBILES BELGIUM

15. AUTOMOBILES U.K.

16. AUTOMOBILES ITALY

17. AUTOMOBILES FRANCE

18. AUTOMOBILES SWEDEN

19. AUTOMOBILES CANADA

20. AC ADAPTORS JAPAN

21. TANTALUM ELECTROLYTIC JAPAN
FIXED CAPACITORS

22. PORTLAND HYDRAULIC CEMENT MEXICO

23. MELAMINE IN CRYSTAL FROM JAPAN

24. INDUSTRIAL VEHICLE TIRES CANADA

3. COUNTERVAILING DUTY INVESTIGATIONS:

(A) SUBSIDIZATION OF EXPORTS IN BOTH DEVELOPED AND DEVELOPING COUNTRIES IS OF GREAT CONCERN TO THE U.S., WHICH SEEKS AN INTERNATIONAL SUBSIDIES/COUNTERVAILING DUTY CODE. THERE HAS BEEN A COUNTERVAILING DUTY LAW IN THE U.S. STATUTE BOOKS SINCE 1897. IT REQUIRES THE TREASURY TO ASSESS AN OFF-SETTING DUTY WHEN THE SECRETARY OF THE TREASURY DETERMINES THAT

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"BOUNTIES OR GRANTS" ARE BEING PAID OR BESTOWED ON EXPORTS TO THE UNITED STATES. IN CONTRAST TO ANTIDUMPING LAW, IT IS NOT NECESSARY TO ESTABLISH INJURY (EXCEPT ON DUTY FREE PRODUCTS). THERE WERE NO DEADLINES FOR COUNTERVAILING INVESTIGATIONS UNTIL THE TRADE ACT OF 1974 REQUIRED THAT TREASURY MAKE A FINAL DETERMINATION WITHIN ONE YEAR AFTER RECEIPT OF ALL VALID PETITIONS. AS A RESULT, TREASURY HAD TO INITIATE INVESTIGATIONS IN SOME 30 PENDING CASES, INCLUDING TWO FROM 1967, ON JANUARY 3, 1975. IT ALSO HAD FOUR PREVIOUSLY ANNOUNCED CASES. THE INCREASED TREASURY WORKLOAD, PRIMARILY INVOLVING OLD CASES, HAS CERTAINLY BEEN ONE FACTOR GIVING RISE TO THE ERRONEOUS IMPRESSION THAT THE U.S. IS GOING PROTECTIONIST.

(B) AT THE SAME TIME, THE TRADE ACT GRANTED AUTHORITY TO THE SECRETARY OF THE TREASURY TO WAIVE COUNTERVAILING DUTIES PROVIDED THE FOLLOWING CRITERIA COULD BE MET: 1) THE ADVERSE EFFECT OF SUBSIDIES IS ELIMINATED OR SIGNIFICANTLY REDUCED, 2) PROGRESS IS BEING MADE WITH THE MULTILATERAL TRADE NEGOTIATIONS TO REACH AGREEMENTS ON THE ELIMINATION OF BARRIERS TO TRADE, AND 3) THE IMPOSITION

OF COUNTERVAILING DUTIES WOULD SERIOUSLY JEOPARDIZE THESE NEGOTIATIONS. THE MAIN PURPOSE FOR THIS PROVISIONS WAS TO PROVIDE AN INCENTIVE IN GENEVA FOR THE NEGOTIATION OF A SUBSIDIES/COUNTERVAILING DUTY CODE WHICH WOULD SPELL OUT THE KINDS OF SUBSIDIES WHICH WOULD BE ALLOWED AND THOSE WHICH WOULD NOT. IN EXCHANGE FOR AN ACCEPTABLE AGREEMENT, THE UNITED STATES WOULD AGREE TO INCORPORATE

AN INJURY CLAUSE INTO ITS LONG STANDING COUNTERVAILING DUTY LAW.

(C) DURING THE YEAR SOME FOURTEEN CASES WERE WITHDRAWN BY THE PETITIONERS. AT THE TIME OF THE JANUARY 3 DEADLINE, THE TREASURY HAD MADE 20 FINAL DETERMINATIONS, TEN OF WHICH WERE NEGATIVE AND ONE A TERMINATION. DETERMINATIONS THAT BOUNTIES OR GRANTS EXISTED WERE MADE IN NINE CASES, BUT THE TREASURY EXERCISED ITS WAIVER AUTHORITY IN SIX INSTANCES. COUNTERVAILING DUTIES ARE BEING ASSESSED IN FOUR CASES. (THE FIGURES DO NOT AGREE BECAUSE TREASURY HAD TO SPLIT ONE CASE, WAIVING COUNTERVAILING DUTIES ON UNCLASSIFIED

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KOREAN RUBBER FOOTWEAR BUT NOT ON NON-RUBBER FOOTWEAR BECAUSE OF PROVISIONS OF TRADE ACT.)

(D) 1975 COUNTERVAILING DUTY DETERMINATIONS

TERMINATED

1. OXYGEN SENSING PROBES CANADA
NEGATIVE
2. COTTON TEXTILES & MAN-MADE FIBERS INDIA
3. CAST IRON SOIL PIPE INDIA
4. FLOAT GLASS FRANCE
5. FLOAT GLASS U.K.
6. FLOAT GLASS BELGIUM
7. FLOAT GLASS WEST GERMANY
8. ELECTRONIC PRODUCTS JAPAN
9. ASPARAGUS MEXICO
10. NON-RUBBER FOOTWEAR ARGENTINA
11. FERROCHROME SOUTH AFRICA

AFFIRMATIVE PLUS WAIVER

12. DAIRY PRODUCTS EC
13. CANNED HAMS EC
14. CHEESE AUSTRIA

15. CHEESE SWITZERLAND

16. CARBON PLATE STEEL MEXICO

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17A. RUBBER FOOTWEAR KOREA

AFFIRMATIVE (RATE OF CVD)

17B. NON RUBBER FOOTWEAR KOREA (.7
PERCENT)

18. ALL FOOTWEAR TAIWAN (5
PERCENT EST)

19. FLOAT GLASS ITALY (10
PERCENT EST.)

20. LEATHER HANDBAGS BRAZIL (14
PERCENT)

CVD CASES PENDING ON JANUARY 5, 1976

1. CERAMIC WALL TILE PHILIPPINES

2. 2 CASTOR OIL PRODUCTS BRAZIL

3. CHEESE NORWAY

4. CHEESE FINLAND

5. CHEESE SWEDEN

6. SCREWS ITALY

7. GLASS BEADS CANADA

4. SECTION 201 ("ESCAPE CLAUSE");

(A) "ESCAPE CLAUSE" LEGISLATION IS INTENDED TO PROVIDE
RELIEF OF LIMITED DURATION FOR U.S. INDUSTRIES SERIOUSLY
INJURED BY THE INCREASED IMPORTATION OF COMPETITIVE
PRODUCTS. THE TRADE ACT OF 1974 EASED REQUIREMENTS BY
ELIMINATING THE NEED TO SHOW THAT AN INCREASE IN IMPORTS

IS THE RESULT OF A TRADE CONCESSION. ALSO INCREASED
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IMPORTS NOW MUST ONLY BE A SUBSTANTIAL CAUSE (IE NO LESS IMPORTANT THAN ANY OTHER) OF SERIOUS INJURY RATHER THAN THE MAJOR CAUSE OF SERIOUS INJURY AS UNDER PRIOR LEGISLATION. THE INTERNATIONAL TRADE COMMISSION HAS SIX MONTHS IN WHICH TO COMPLETE AN INVESTIGATION BEFORE DECIDING WHETHER OR NOT TO RECOMMEND TO THE PRESIDENT THAT RELIEF BE GRANTED TO THE INDUSTRY AND IF SO THE TYPE AND AMOUNT OF RELIEF. WHILE THE ITC HAS TO RECOMMEND SPECIFIC MEASURES, (E.G. QUOTAS OR TARIFF INCREASES), THE PRESIDENT MAY DECIDE TO EMPLOY ALTERNATIVE MEASURES. THE PRESIDENT'S ACTION IS SUBJECT TO A CONGRESSIONAL OVERRIDE. SHOULD THIS HAPPEN, THE ITC REMEDY HOLDS.

(B) 12 ESCAPE CLAUSE INVESTIGATIONS WERE INITIATED IN 1975. THE NUMBER OF PETITIONS CAN BE EXPLAINED IN PART BY THE DESIRE OF THE PRIVATE SECTOR TO TEST THE NEW, RELAXED ESCAPE CLAUSE PROVISIONS. UNDER THE VERY STRICT PROVISIONS OF THE PREVIOUS ACT, CERTAIN INDUSTRIES IN REAL DIFFICULTY WERE SIMPLY UNABLE TO OBTAIN RELIEF AND ARE NOW TRYING AGAIN.

(C) ALL COUNTRIES CAN BE ASSURED, HOWEVER, THAT THE ITC WILL REQUIRE STRICT AND IMPARTIAL FULFILLMENT OF THE LEGAL CRITERIA BEFORE RECOMMENDING RELIEF. IT IS

NOTEWORTHY THAT THE ITC FOUND NO INJURY IN THE FIRST THREE DECISIONS UNDER THE REVISED LAW. (DOORSKINS, CIGAR WRAPPER TOBACCO, AND INDUSTRIAL FASTENERS). IN ANY DISCUSSIONS REGARDING IMPORT RELIEF PROCEDURES, IT SHOULD BE STRESSED THAT U.S. LAW IS IN CONFORMITY WITH INTERNATIONALLY ACCEPTED PRACTICE. PROCEEDINGS PROVIDE FOR PUBLIC HEARINGS OPEN TO ALL INTERESTED PARTIES, AND, OF COURSE, THE ADMINISTRATION IS ALWAYS READY TO CONSULT WITH FOREIGN GOVERNMENTS AND PRIVATE BUSINESS INTERESTS.

(D) ESCAPE CLAUSE CASES PENDING ON JANUARY 1, 1976

SECTION 201 (ESCAPE CLAUSE) ACTIONS)

PRODUCT	PRINCIPAL EXPORTERS	DATE FOR ITC
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TO U.S.	FINAL REPORT
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ASPARAGUS	MEXICO, TAIWAN	1/10/76
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STAINLESS STEEL & JAPAN, SWEDEN 1/16/76
ALLOY TOOL STEEL

SLIDE FASTENERS & JAPAN, WEST GERMANY 2/18/76
PARTS

NON-RUBBER FOOTWEAR KOREA, TAIWAN, BRAZIL, 2/20/76
SPAIN, ITALY

CERTAIN STAINLESS JAPAN, KOREA, TAIWAN, 2/28/76
STEEL FLATWARE WEST GERMANY

CERTAIN GLOVES TAIWAN, HONG KONG, 3/8/76
MEXICO, KOREA,
AUSTRALIA

MUSHROOMS KOREA, TAIWAN 3/17/76

FERRICYANIDE & JAPAN 4/2/76
FERROCYANIDE BLUE
PIGMENTS

COUNTRIES IN ASIA, LATIN
AMERICA AND AFRICA

5. SECTION 301

THIS SECTION OF THE TRADE ACT IS MEANT TO DEAL WITH THE FOLLOWING TRADE PRACTICES IMPAIRING U.S. TRADE: 1) UNJUSTIFIABLE OR UNREASONABLE TARIFF OR OTHER IMPORT RESTRICTIONS, 2) UNREASONABLE DISCRIMINATORY ACTS, 3) THIRD MARKET SUBSIDIES, 4) UNREASONABLE RESTRICTIONS ON ACCESS TO SUPPLIES OF FOOD, RAW MATERIALS, OR MANUFACTURED OR SEMIMANUFACTURED PRODUCTS. COMPLAINTS ARE FILED WITH OFFICE OF THE SPECIAL-TRADE-REPRESENTATIVES WHICH ESTABLISHED A 301 COMMITTEE SUBSEQUENT TO PASSAGE OF THE TRADE ACT ON WHICH INTERESTED AGENCIES ARE REPRESENTED. THIS UNCLASSIFIED

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COMMITTEE, CHAIRED BY STR, REVIEWS THE ALLEGATIONS AND HOLDS PUBLIC HEARINGS WHEN SO REQUESTED BY THE COMPLAINANT. THERE ARE NO DEADLINES FOR ACTION. AFTER REVIEW OF THE CASE STR RECOMMENDS APPROPRIATE ACTIONS, IF ANY, TO THE PRESIDENT.

NO ACTIONS WERE TAKEN UNDER SECTION 301 IN 1975.

SECTION 301 CASES PENDING ON JANUARY 1, 1976

1. DELTA/FLOMERCA -- SHIPPING CASE (GUATEMALA)

2. CANNED FRUITS AND VEGETABLES -- (EC)

3. EGGS QUOTAS -- (CANADIAN)

4. EGG ALBUMEN -- VARIABLE LEVY (EC)

5. FLOUR -- THIRD COUNTRY SUBSIDY (EC)

6. BARLEY MALT -- THIRD COUNTRY SUBSIDY (EC)

6. IN SUMMARY, THERE IS NO BASIS IN FACT TO SUBSTANTIATE ACCUSATIONS THAT THE U.S. IS GOING PROTECCIONIST. MINDFUL OF OUR INTERNATIONAL OBLIGATIONS AND LARGER INTERNATIONAL ECONOMIC OBJECTIVES AND POLICIES, U.S. GOVERNMENT AGENCIES CONTINUE TO ACT IN A RESPONSIBLE MANNER. ALTHOUGH THE TRADE ACT SEEKS TO ENSURE THAT THE U.S. IS PROTECTED FROM UNFAIR TRADE PRACTICES AND TO PROVIDE TEMPORARY RELIEF FROM IMPORT COMPETITION WHERE NECESSARY, ITS ESSENTIAL PURPOSE IS TO SEEK THE REDUCTION, HARMONIZATION OR ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE.

7. TO DATE IN 1976, THE FOLLOWING ACTIONS HAVE BEEN TAKEN UNDER THE VARIOUS PROVISIONS OUTLINED ABOVE.

A. ANTIDUMPING: ON JANUARY 5, THE ANTIDUMPING INVESTIGATION OF WATER CIRCULATING PUMPS FROM SWEDEN WAS DISCONTINUED. ON JANUARY 10, THE INTERNATIONAL TRADE COMMISSION DETERMINED THAT THE DOMESTIC INDUSTRY WAS UNCLASSIFIED

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BEING INJURED BY IMPORTS OF BIRCH 3-PLY DOORSKINS AT LESS THAN FAIR VALUE FROM JAPAN. TREASURY WILL ISSUE A FORMAL DUMPING FINDING IN A FEW WEEKS.

E. COUNTERVAILING DUTY: ON JANUARY 26, TREASURY INITIATED A COUNTERVAILING DUTY INVESTIGATION OF VITAMIN K FROM SPAIN. A FINAL DETERMINATION IS DUE ON NOVEMBER 10, 1976.

C. SECTION 201 (ESCAPE CLAUSE): THE ITC HAS RULED IN TWO ESCAPE CLAUSE ACTIONS. ON JANUARY 10, THE COMMISSION ISSUED A SPLIT DECISION. THREE COMMISSIONERS RECOMMENDED THAT QUOTAS BE ESTABLISHED FOR THE IMPORTATION OF ASPARAGUS, WHILE THREE COMMISSIONERS FOUND NO INJURY TO THE U.S. INDUSTRY. ON JANUARY 16, THE COMMISSION DETERMINED 4-1 THAT A DOMESTIC INDUSTRY WAS BEING INJURED BY INCREASED IMPORTS OF ALLOY AND STAINLESS STEEL AND

RECOMMENDED TO THE PRESIDENT THE ESTABLISHMENT OF
IMPORT QUOTAS. BOTH DETERMINATIONS ARE BEING STUDIED BY
CONCERNED AGENCIES TO DETERMINE WHAT ACTIONS TO RECOMMEND-
ED TO THE PRESIDENT.

D. SECTION 301: NO ACTIONS. INGERSOLL

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